

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 4554 OF 2024**

Shrikant Rajendra Kale

... Applicant

Versus

State of Maharashtra And Anr

... Respondents

.....

Ms. Pooja Agarwal, Advocate for the Applicant.

Smt. Sangeeta D. Shinde, APP for the State.

Mr. Shailesh Chavan, Advocate for Respondent No.2 (Appointed through legal aid)

API- Rahul Namade, Parvati / Dattawadi Police Station, Pune City present.

CORAM : SHIVKUMAR DIGE, J.**DATED : 28th JANUARY, 2025.****P.C. :**

1. By this application, applicant is seeking regular bail in C.R.No 83 of 2021 registered with Dattawadi Police Station, Pune for the offences punishable under Sections 363, 376(DA), 307, 506(2) of Indian Penal Code, 1860 and under Sections 4, 5(g), 6, 16 of Protection of Children from Sexual Offences Act, 2012 (for short "POCSO Act"), under Section 3(25), 27 of Arms Act and under Section 37(1)(C) read with 135 of Maharashtra Police Act.

2. It is prosecution's case that when victim had gone to meet her friend i.e. accused No.1 at that time accused No.1 and co-accused sexually assaulted her and accused No.1 fired bullet from his pistol at victim with

intention to kill her. It is alleged that after the incident the applicant met the victim and told her not to complain against the accused No.1 Paddy, else he will kill her. In supplementary statement the victim has stated that the applicant had sexually assaulted her on earlier occasion.

3. It is contention of learned counsel for the applicant that at the time of incident applicant was not present, the applicant came later on. The allegations of sexual assault are against the co-accused. After happening of the incident, the applicant went there. The allegations against the applicant are that he threatened the victim, except these allegations there are no other allegations against the applicant. Learned counsel further submitted that though in supplementary statement, the victim has stated that the applicant had sexually assaulted her on earlier occasion but no date and time is mentioned. Learned counsel further submitted that statement of victim under Section 164 of Cr.P.C. is recorded. In the said statement, she has not uttered any word against the applicant about sexual assault. The applicant is behind bar more than three years, yet trial has not been commenced hence requested to allow the application.

4. It is contention of learned APP along with learned counsel for the respondent No.2 that applicant was part of group who gang raped on victim who was 14 years and 10 months old. At the time of incident, the

co-accused tried to kill her by firing at her. After the incident, the applicant threatened the victim not to file complaint against the co-accused otherwise they will kill her. It shows active involvement of the applicant in the crime. The victim in her supplementary statement alleged that the applicant sexually assaulted her before the incident. Considering the age of the victim at the time of incident and role of the applicant in the crime, his bail application be rejected. If applicant released on bail he may abscond and threaten the prosecution witnesses, hence requested to reject the application.

5. I have heard all learned counsel. Perused charge-sheet produced on record. It appears from the record, at the time of incident applicant was not present and he came after some time of the incident. In the statement under Section 164 of Cr.P.C. of the victim the victim has not stated about the sexual assault done by the applicant though she has stated before the police in supplementary statement. The applicant is behind bar more than three years. He is karta of his family. It may take time to conclude the trial, considering these facts, I pass following order.

ORDER

- (i) Applicant be released on bail in Crime No. 83 of 2021 registered with Dattawadi police station, Pune, on executing P.R. Bond in the sum of Rs. 25,000/- with one

or two sureties in the like amount.

- (ii) Applicant shall attend the concerned police station once in a month i.e. on first Saturday between 11:00 a.m. to 2:00 p.m. till framing of charge.
- (iii) Applicant shall not tamper with the evidence or attempt to influence and/or influence the prosecution witnesses.
- (iv) The application is allowed in the aforesaid terms.
- (v) The Trial Court shall not be influenced by the observations made in this order and shall decide the matter on its own merits and in accordance with law.

6. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)

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SATISH
KILAJE

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by SONALI
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